



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
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MEMORANDUM

To: United States Designated/Elected Office

From: George Dombroske
PCT Legal Office

Via: Leonard Smith

Re: Extension of Time in 09/786,896

This memo concerns the Request for Legal Staff Consideration dated 30 January 2002.

Applicant has petitioned for a five month extension of time to respond to the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 16 April 2001, thereby extending the response period beyond six months. However, 35 U.S.C. 133, which sets a six-month maximum period for response, applies only to failure to "prosecute the application within six months of any action therein..." A Notification of Missing Requirements is not an "action," therefore, 35 U.S.C. 133 does not apply. Instead, pursuant to 37 CFR 1.136(a)(1), applicant is permitted to extend the period for response to a Notification of Missing Requirements by up to five months.

Therefore, the five month extension of time in this case is appropriate, and the application should NOT be regarded as abandoned.

Please process applicant's response to the Notification of Missing Requirements, filed on 16 January 2002.

GD/LS